
Commerce & Labor Committee

HB 1264

Brief Description: Prohibiting noncompetition agreements in the broadcasting industry.

Sponsors: Representatives Kenney, Wood, Chase, Sells, Dickerson, Kessler, Kirby, Conway, Morrell, Hunt, Hasegawa, Santos, Kagi and McIntire.

Brief Summary of Bill

- Prohibits broadcasting industry employers from requiring certain employees to enter into employment contracts containing noncompetition clauses.

Hearing Date: 2/3/05

Staff: Jill Reinmuth (786-7134).

Background:

Noncompetition clauses are provisions within an employment contract that restrict an employee from competing with his or her employer. These clauses typically restrict an employee from engaging in business activities in which the employee competes with the employer, or accepting employment with another business that competes with the employer. They also restrict an employee's activities for a specific period of time and in a specific geographic area.

Washington courts enforce "reasonable" noncompetition clauses. Courts consider three factors when deciding if a clause is reasonable:

- Whether restraining the employee from performing services is necessary for the protection of the business or goodwill of the employer.
- Whether the clause harms the employee more than is reasonably necessary to secure the employer's business or goodwill.
- Whether the loss of the employee's services and skills injures the public to a degree warranting nonenforcement of the clause.

Courts also look at the relative bargaining power of the employee and employer upon entering the employment relationship, and the motives of both when terminating the relationship.

Summary of Bill:

Broadcasting industry employers are prohibited from requiring applicants, employees, or independent contractors from entering into employment contracts containing noncompetition

clauses. Noncompetition clauses may not be enforced against employees who are terminated without cause before their contracts expire. Noncompetition clauses may be enforced for existing contracts or against employees who breach employment contracts.

Broadcasting industry employers requiring noncompetition clauses are subject to civil liability and reasonable attorneys' fees and costs.

Broadcasting industry employers maintain their rights to protect trade secrets or other proprietary information by lawful means.

"Employee" is defined as an employee of a broadcasting industry employer, but not a sales or management employee.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.